

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF OREGON

3 THE HON. MICHAEL J. McSHANE, JUDGE PRESIDING

4
5 UNITED STATES OF AMERICA,)

6 Government,)

7 vs.) No. 6:14-cr-00482-MC-1

8 DANIEL STEPHEN JOHNSON,)

9 Defendant.)

10
11 REPORTER'S TRANSCRIPT OF PROCEEDINGS

12 EUGENE, OREGON

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PROCEEDINGS

Tuesday, May 8, 2018, at 1:04 p.m.

THE COURT: We will go on the record.

Mr. Sweet.

MR. SWEET: One thing, just to alert the Court, in terms of scheduling, we have a very brief witness and then we have a more substantive witness. We had another witness after that on deck for this afternoon. I heard that he may have an abscess and is apparently being taken to the dentist now. So I strongly suspect that will rule him out for this afternoon. And he would have been a fairly lengthy witness that would have taken us to the end of the day.

We have another witness who is flying in. His plane is supposed to land within the half hour. He is short; however, we let the defense know we might try to squeeze him in. So if we do reach a gap in time, the government can put him on and the defense, we have been giving the defense a day in advance. We did not give them notice of this person. We understand, and we could break from there. So I think our schedule for today, we may run out of witnesses, Your Honor, because of the dentist visit.

THE COURT: That's fine. Are we on track to finish the governments case?

MR. SWEET: We are, Your Honor. And something we very briefly discussed with the defense today is we would

1 likely finish either very end of tomorrow, or probably early
2 on Thursday, would be our guess. And one thing we discussed
3 with the defense is if we raced through to finish tomorrow,
4 so that we wouldn't have to bring in the jury for a 40-minute
5 witness on Thursday, since there would be an inevitable gap
6 between our case and their case on Monday, I think the
7 defense is agreeable to us not actually resting at the end of
8 tomorrow, but then -- which would allow us to digest what we
9 put on, look at the transcript, and make sure everything was
10 in.

11 If there was something to clean up, we could do
12 that, if that's something that is acceptable to the Court.
13 That would probably make it a little easier for us to hurry
14 through and try to get it by the end of tomorrow.

15 THE COURT: That's acceptable.

16 MR. SWEET: And it may go into Thursday, depending
17 on medical stuff. And we do have a few other housekeeping
18 matters. We're about to file a motion to submit some
19 co-conspirator statements and the defense will need to
20 digest --

21 THE COURT: The motion to admit statements of Gary
22 Johnson?

23 MR. SWEET: Yes, Your Honor.

24 THE COURT: Thank you.

25 MR. WEINERMAN: Judge, I agree with all of that.

1 And so the Court knows, and it's worked out pretty well, the
2 government has been telling us in advance who they are going
3 to call the next day so we can be prepared. There's a
4 witness that I know they want to get on who they didn't tell
5 us about. So we're not prepared to cross examine that
6 witness.

7 We have no objection if the government or the Court
8 wants to put him on for direct, but we would like to do the
9 cross tomorrow.

10 THE COURT: Sure. We can do that.

11 MS. BRITSCH: There's some Facebook messages we're
12 going to seek to submit through Tola Long, who is our second
13 witness. The defense has indicated they have some objections
14 to those messages. They indicate they have a general
15 objection to all of the messages, something we perhaps want
16 to take up before the jury comes in.

17 THE COURT: Do you have an exhibit I can look at?

18 MS. BRITSCH: Yes, there are several exhibits.
19 First is 295. And, Your Honor, I am not sure if it will be
20 in the notebook. They have been added later.

21 Britney, do you have the copy I gave you earlier?
22 Is it possible you could pass that up to the Court for ease.

23 Your Honor, the packet I have passed up has all the
24 exhibits that we will be seeking to have admitted, all the
25 Facebook exhibits.

1 THE COURT: Other than a general objection to
2 Facebook exhibits, does the defense have any succinct --

3 MR. WEINERMAN: If I'm not mistaken, isn't this the
4 theory of admissibility as a co-conspirator here saying as to
5 Tola Long.

6 MS. BRITSCH: No, Your Honor, these are
7 messages between Daniel Johnson and Tola, and we're seeking
8 to admit them as statements of a party opponent.

9 MR. WEINERMAN: So, Judge, it's more of a structural
10 objection. The government has kind of changed the format.
11 Previously all the chats that came in came in under the
12 Facebook formats, and they have condensed them and submitted
13 it as a stand-alone document.

14 And we think for purposes of consistency and not
15 confusing the jury it should be the same format that all the
16 other exhibits, the Facebook chats have come in, not changed
17 in the middle of the trial the way they are submitted to the
18 Court and the jury.

19 MS. BRITSCH: Your Honor, what we have done is
20 essentially put together a summary of the content. Behind
21 that summary is the actual content. It's simply for ease to
22 allow everyone on the jury, the witness, the Court to see
23 what these messages say more quickly to save time and
24 confusion.

25 But the original Facebook pages are behind that

1 summary, and we would seek to admit the entirety, both the
2 summary and the original content beneath.

3 THE COURT: I agree. The summary is much easier to
4 read. I think the format of the texting within Facebook is
5 sometimes hard to determine who is speaking with who and
6 when. So I do think it's helpful to have it in the summary
7 fashion that's been presented by the government.

8 Could I just clarify? Tola is a person in the case?

9 MS. BRITSCH: I am sorry, Your Honor?

10 THE COURT: What is Tola's role in this case?

11 MS. BRITSCH: Tola lived in the orphanage. He thus
12 far has not disclosed sexual abuse. I don't expect him to
13 disclose sexual abuse. But he heard say that Mr. Daniel
14 Johnson sexually abused LS X and he was -- he did not tell
15 anybody about that originally, because of the visits to
16 Daniel Johnson in jail and the things that are said in these
17 messages to Tola, paying for his school, paying for a
18 motorcycle.

19 And these messages also reveal Mr. Daniel Johnson
20 asking Tola to bring certain boys to visit him in jail, and
21 those boys are ones that have testified or will testify to
22 being victims.

23 THE COURT: I am going to allow the exhibit.

24 MS. BRITSCH: Thank you, Your Honor.

25 THE COURT: And that's 294. These are -- is it 275?

1 MS. BRITSCH: No, I apologize. That list is
2 broader. Exhibits 294 through 298, and then Exhibit 300.
3 And I should clarify, Exhibit 300 are messages between Tola
4 Long and Janice Roberts, not Mr. Johnson.

5 (EXHIBIT 294 to 298, 302 and 303
6 OFFERED.)

7 MR. WEINERMAN: And I think that might be
8 objectionable. It's not an --

9 THE COURT: Admission of party opponent. So what is
10 the relevance and admissibility of that?

11 MS. BRITSCH: Your Honor, we would seek to admit
12 that on redirect as a prior consistent statement in this
13 message. The statement of Tola Long, he says, I had no
14 choice because he tell me he would help me buy a moto to go
15 to school and help me with university. To the extent he's
16 impeached --

17 THE COURT: If he's impeached, it does appear to be
18 a prior consistent statement. It would come in, but not --
19 it would be conditional on those two things occurring.

20 MS. BRITSCH: And then the remaining two, 302 and
21 303, that are also messages between Tola and Mr. Daniel
22 Johnson.

23 THE COURT: Those will come in.

24 (EXHIBIT 294 to 298, 302, 303
25 RECEIVED.)

1 THE COURT: Are we ready for the jury?

2 MR. SINHA: I think so.

3 THE COURT: So 294 through 298 are in, as well as
4 302 and 303.

5 MR. WEINERMAN: The only one not admitted is 300?

6 THE COURT: Not at this time, no.

7 MR. WEINERMAN: So I need to see 294 and 298.

8 Thank you, Judge.

9 THE COURT: Ms. Pew, if you want to get the jury.

10 (JURY IN.)

11 THE COURT: I am hoping our visit by Judge Bloch
12 from New York will coincide with our afternoon break. He's
13 coming around three thirty.

14 MR. SWEET: Would the Court recess for the day,
15 essentially?

16 THE COURT: No, I think we can have a short break,
17 maybe 20 minutes.

18 MS. BRITSCH: Your Honor, we may be done with our
19 other two witnesses by that point. We can't be certain, but
20 for your planning purposes, that's certainly possible.

21 THE COURT: Maybe you will get a chance to meet him.
22 He presided over all the Gambino Family's prosecution in New
23 York. He's quite a character.

24 (JURY IN.)

25 THE COURT: Folks, thanks for your patience.

1 Sometimes I need to talk to the attorneys about evidentiary
2 matters. I promise we're working, not out lounging around.
3 So with that, we will --

4 MR. SINHA: The United States calls Brett Callier of
5 the United States Marshal Service.

6 THE COURT: Mr. Callier, if you will step up to the
7 witness chair, remain standing for just a moment to be sworn
8 in.

9 BRETT CALLIER,
10 produced as a witness, having been first duly sworn, was
11 examined and testified as follows:

12 THE WITNESS: Yes.

13 COURT CLERK: You may be seated. Please state your
14 full name and spell your first and last name for the record.

15 THE WITNESS: Brett Callier, B-R-E-T-T,
16 C-A-L-L-I-E-R.

17 DIRECT EXAMINATION

18 BY MR. SINHA:

19 Q Mr. Callier, can you tell us what you do for a living,
20 please?

21 A I'm an Administrative Officer for the US Marshals
22 Service in Oregon.

23 Q In that capacity, are you familiar with the ways in
24 which Federal witnesses for both the United States Government
25 and criminal defendants are compensated?

1 A Yes.

2 Q And so the testimony you are going to give today, am I
3 correct in understanding, you are not testifying about this
4 case specifically? You are just going to talk generally
5 about how witnesses for the government and witnesses for
6 criminal defendants receive money?

7 A Correct.

8 Q So my first question to you is, if you had a witness in
9 a criminal trial who was traveling into the district of
10 Oregon to testify, what is the amount of money that that
11 person would receive per day?

12 A In Eugene they receive \$59 per diem, and \$40 a day for
13 the trial attendance.

14 Q So that's \$99 a day?

15 A \$99.

16 Q So over the course of a seven-day week, that would would
17 be \$693, correct?

18 A Yes.

19 Q And does that person receive that money, the same amount
20 of money if they were a witness for a criminal defendant?

21 A Yes.

22 Q So it doesn't matter if they are a government witness or
23 defendant's witness?

24 A No.

25 Q Is that amount of money changeable at the request of the

1 US Attorney's Office or the request of the Federal Bureau of
2 Investigations?

3 A No.

4 Q Is that amount set by law?

5 A Yes.

6 Q Tell me the mechanics of how that money is distributed.

7 A For an international witnesses, the US Marshals receive
8 a DOJ-3 form for the amounts for the court attendance fees
9 and per diem, and we make checks, and distribute the checks.

10 Q And if someone is traveling from a long distance and
11 they don't have money to pay for their food on the trip, is
12 it common for there to be an advance of their witness fees
13 and per diem that is given to them before they get on the
14 plane?

15 A Correct.

16 Q Is that done through the United States Department of
17 State?

18 A That is for international witnesses.

19 Q Okay. And so once the witnesses receive the checks, is
20 it common for those witnesses to be able to cash those checks
21 at a local bank if they don't have a checking account?

22 A Yes.

23 MR. SINHA: Just one second, if I could, Your Honor.
24 Okay.

25 I don't have any other questions. I will pass the

1 witness.

2 THE COURT: Any cross?

3 CROSS EXAMINATION

4 BY MR. WEINERMAN:

5 Q A couple. So this \$99 a day would apply even if the
6 person testified just one day?

7 A Correct.

8 Q So if they were here for weeks, for let's say a month,
9 and they only testified one day, they are still going to get
10 \$99 a day?

11 A Correct.

12 MR. WEINERMAN: No further questions.

13 MR. SINHA: No redirect.

14 THE COURT: Thank you very much, sir. You are free
15 to go.

16 MS. BRITSCH: Your Honor, the United States calls
17 Tola Long.

18 THE COURT: For the jury, in terms of logistics,
19 we're on target. The government should be finishing up by
20 end of tomorrow, or early Thursday. Then we will be taking a
21 break for the remainder of the week and have you come back on
22 Monday for the defense case. And I should have a better idea
23 how many days that will be in the next couple of days, I
24 think.

25 MS. BRITSCH: Your Honor, the interpreter is on his

1 way now. Sorry for the delay.

2 Your Honor, it sounds like the interpreter is going
3 through security at the moment.

4 THE COURT: Mr. Long, please stand.

5
6 TOLA LONG,
7 produced as a witness, having been first duly sworn, was
8 examined and testified as follows:

9
10 (NOTE: Unless otherwise indicated, all answers
11 represented by "A" and "THE WITNESS" will be answers given by
12 the witness through the interpreter after translation.)

13 THE WITNESS: Well, you speak too fast. I couldn't
14 understand you.

15 I do.

16 COURT CLERK: You may be seated. Please state your
17 full name, and please spell your first and last for the
18 record.

19 THE WITNESS: Tola Long, L-O-N-G, T-O-L-A.

20
21 DIRECT EXAMINATION

22 BY MS. BRITSCH:

23 Q Good afternoon, Tola. Sorry to keep you waiting. Tola,
24 can you tell me how old you are?

25 A Now I am 26 years old.

1 Q And what is your birth date?

2 A The 20th of November, 1992.

3 Q I am going to ask you to please take a look at
4 Government Exhibit 156. It's going to show on the screen to
5 your left. Do you recognize this as your passport?

6 A Yes, I do.

7 Q And is that your birth date on that passport?

8 A Yes.

9 MS. BRITSCH: I move to admit Exhibit 156, and ask
10 it to be published, please.

11 (EXHIBIT 156 OFFERED.)

12 MR. WEINERMAN: No objection.

13 THE COURT: It will be received.

14 (EXHIBIT 156 RECEIVED.)

15 Q BY MS. BRITSCH: And that accurately reflects your birth
16 date, November 20, 1992?

17 And, Tola I am going to ask if you can say "yes" or
18 "no" instead of nodding. That will be help the court reporter
19 to be able to record it.

20 A Yes.

21 Q Tola, where are you from?

22 A From Phnom Penh.

23 Q And that is the capital city of Cambodia?

24 A Yes.

25 Q Do you have any family in Cambodia?

1 A Yes.

2 Q Can you tell me the members of your family?

3 A I have three siblings.

4 Q Do you have brothers and sisters?

5 A I have two older sisters.

6 Q Do you work in Cambodia?

7 A Yes.

8 Q Can you tell us what you do there, please?

9 A I am working as a civil police, with the Department of

10 Interior.

11 Q So you work for the government of Cambodia?

12 A Yes.

13 Q And do you work with the police service?

14 A Yes.

15 Q And how long have you been doing that?

16 A Two years, now.

17 Q And before that, did you go to university?

18 A Yes, I went for two years.

19 Q And what did you study there?

20 A Before it was medicine.

21 Q Tola, do you know a man named Daniel Johnson?

22 A I do.

23 Q And can you tell us when and how you met Daniel Johnson?

24 A I knew Daniel Johnson when he opened a school close to

25 my house.

1 Q And was that a school to teach English?

2 A Yes.

3 Q And you said that was close to your house in Phnom Penh?

4 A Yes.

5 Q And about how old were you when you first met Daniel at
6 that school?

7 A 11 or 12 years old.

8 Q And did you begin visiting and attending classes at that
9 school?

10 A Yes.

11 Q About how often did you go to those classes?

12 A I went for two -- one or two months.

13 Q And did you go basically every evening?

14 A Yes.

15 Q And was that after you went to regular Cambodia school
16 during the day?

17 A Yes.

18 Q And did there come a point where you stopped going to
19 Daniel Johnson's English school?

20 A Yes.

21 Q And you were living with your mom at that time?

22 A Yes.

23 Q Did something happen where you stopped living with your
24 mom, and moved into an orphanage?

25 A My mom died.

1 Q And when was that?

2 A When I was around 13 or 14 years old.

3 Q And Tola, when your mom died, where did you start
4 living?

5 A I went to live at the -- one of the organizations.

6 Q And did you first live at an organization that was not
7 associated with Mr. Daniel Johnson?

8 A Yes.

9 Q And about how long did you live there?

10 A Two years.

11 Q And while you were living there, did there come a time
12 when you met Mr. Daniel Johnson again at church?

13 A Yes.

14 Q And whose church was that?

15 A It was Pastor Sinai's church.

16 Q And what happened when you saw Daniel Johnson at Pastor
17 Sinai's church?

18 A I got to spoke -- I mean, I got to speak with him.

19 Q And did Daniel ask you to live -- come and live at his
20 orphanage?

21 A Yes.

22 Q And was that place called Hope Transition Center?

23 A Yes.

24 Q And did you move into Daniel Johnson's orphanage in
25 about 2009?

1 A Yes.

2 Q Were there other boys living with Daniel Johnson at that
3 time?

4 A Yes.

5 Q And who were some of those other boys?

6 A BT XX, SESX, Sopheak, and Chai, and Hain, Brother Hain,
7 and Brother Ravy.

8 Q So was it just a few boys at that time?

9 A Yes.

10 Q And about what grade were you in at the time you first
11 moved in with Daniel Johnson?

12 A 9th grade.

13 Q Tola, I am going to ask you to look at a few photos.
14 They will pop up on your screen. The first is Government
15 Exhibit 62.

16 MS. BRITSCH: And, Your Honor, I don't believe
17 there's any objections to these photos, so I would ask that
18 they be published.

19 MR. WEINERMAN: I don't anticipate any objection.

20 THE COURT: They will be published.

21 Q BY MS. BRITSCH: Tola, do you recognize this photo?

22 A Yes, I do.

23 Q Is that you in the photo?

24 A Yes.

25 Q And do you know where this photo was taken?

1 A At the second home.

2 Q Is that the second home of Hope Transition Center?

3 A Yes.

4 Q And is that the second home that you lived in with the
5 defendant?

6 A Yes.

7 Q And if you could take a look at Government Exhibit 63,
8 please. Is that also you?

9 A Yes.

10 Q Do you know where this photo was taken?

11 A At the first house.

12 Q Is that the first house where you lived with Daniel
13 Johnson?

14 A Yes.

15 Q Do you know about how old you are in this photo?

16 A About 15 or 16 years old. I think that was about it.

17 Q Government Exhibit 64, please. Do you remember where
18 this photo was taken?

19 A That was at the second house.

20 Q And was it Christmastime?

21 A Yes.

22 Q And who are the presents from that you are holding?

23 A From D, present from D.

24 Q And when you say D, are you referring to Mr. Daniel
25 Johnson?

1 A Daniel Johnson.

2 Q And Government Exhibit 65, please. Do you recognize
3 this photo?

4 A Yes, I do.

5 Q Who is pictured in this photo?

6 A PE XX.

7 Q And are you also in this photo?

8 A Yes.

9 Q And do you remember when this photo was taken?

10 A It looks like it was at the second home.

11 Q And where were you and PE XX when this photo was taken?

12 A At Island Rong, R-O-N-G.

13 Q Is that an island in Cambodia?

14 A Yes.

15 Q Now, Tola, you said before you moved in with Mr. Daniel
16 Johnson you had been living at a different orphanage.

17 A Yes.

18 Q How did life at Hope Transition Center compare to life
19 at the previous orphanage?

20 A It was very different.

21 Q Can you explain to us how it was different?

22 A So at the other organization, it was under the
23 Filipino's Administration, so the food was not enough. And
24 so the budget was not enough. And we didn't -- we did not
25 have the budget to go to school.

1 Q So would you say you were better taken care of at Daniel
2 Johnson's orphanage?

3 A Yes, Daniel Johnson's place was better.

4 Q When you were living at Hope Transition Center, would
5 you say Daniel Johnson treated all the boys the same, or did
6 he treat some better?

7 A He was good to people that he liked more.

8 Q And who were some of the people that he liked more?

9 A BT XX and Chai.

10 Q Were there any others?

11 A The younger kids like LS X, SO XXX, and ES XXX.

12 Q And does "ES XXX" also go by "ES XXX"?

13 A Yes.

14 Q And why did you think that Daniel Johnson liked those
15 boys more?

16 A I don't know.

17 Q Well, how did he treat them differently? Can you give
18 us an example?

19 A Well, because he liked them more.

20 Q Did he give them more presents at Christmas, for
21 example?

22 A Yes.

23 Q Did he give them different presents at Christmas?

24 A Yes.

25 Q And what kind of presents did you see those boys get as

1 compared to you, or some of the other boys?

2 A People whom he liked more, they received electronic
3 stuff.

4 Q And what kind of stuff would the other boys he didn't
5 like as much get?

6 A They received also, but not as good.

7 Q And when you are at Hope Transition Center, did boys
8 ever spend time in Daniel Johnson's bedroom?

9 A Yes, kids went in there to play games.

10 Q Did they go in there to do anything else?

11 A Sometimes I saw kids give him massages.

12 Q Can you tell us the names of some of the kids you saw
13 going into Daniel Johnson's room to give massages?

14 A VS XXX, LS X, ES XXX, you know, just young ones.

15 Q And do you know what Daniel Johnson -- did you ever see
16 what Daniel Johnson was wearing during those massages?

17 A Sometimes he had jeans on, and sometimes he had shorts.

18 Q Did he wear a shirt?

19 A During the massages, no.

20 Q Did you ever see any boys sleeping in Daniel Johnson's
21 bedroom?

22 A Yes, I used to see ES XXX.

23 Q And do you remember at which house of Hope Transition
24 Center that was?

25 A The third house.

1 Q Did you ever see anyone sleep or live in Daniel
2 Johnson's bedroom in the first house?

3 A BT XX lived with D at the room in house No. 1.

4 Q And how about house No. 2? Did any of the boys live in
5 Daniel Johnson's bedroom?

6 A At the second house, there was -- there were BT XX and
7 SO XXX with Daniel.

8 Q Tola, did you ever hear any of the boys at Hope
9 Transition Center say that Daniel Johnson sexually abused
10 them?

11 A Yes, I heard from LS X.

12 Q And what did you hear LS X say?

13 A He said Daniel touched his penis.

14 Q And when you heard LS X say that, where was LS X?

15 A He was in the room talking to his fellow kids.

16 Q And was that the room where the younger kids slept?

17 A Yes.

18 Q And where were you when you heard him say that?

19 A I was walking to go downstairs.

20 Q And did that room where the little boys slept have a
21 door?

22 A No, it did not.

23 Q So you could hear from outside the room what LS X was
24 telling his friends?

25 A Yes.

1 Q And what location of Hope Transition Center was this at
2 when you heard LS X say that?

3 A The third house.

4 Q And is that the house where Daniel Johnson was arrested?

5 A Yes.

6 Q And you said that LS X said Daniel Johnson touched his
7 penis. Do you remember the exact words that LS X used?

8 A I heard him talking to other kids, saying that D touched
9 his penis.

10 Q And Tola, about how long did you live at the third house
11 of Hope Transition Center?

12 A It was like about a year.

13 Q Tola, I am going to ask you to take a look at Government
14 Exhibit 120, please, on the screen. Do you recognize this
15 photo?

16 A Yes.

17 Q And where was this photo taken?

18 A At the second house.

19 MS. BRITSCH: Your Honor, at this time I would move
20 to admit Exhibit 120.

21 (EXHIBIT 120 OFFERED.)

22 MR. WEINERMAN: No objection.

23 THE COURT: It will be received.

24 (EXHIBIT 120 RECEIVED.)

25 Q BY MS. BRITSCH: Tola, whose room is this at the second

1 house?

2 A Daniel's room.

3 Q And had you ever been in Daniel Johnson's room before?

4 A Yes.

5 Q I am going to ask you to take a look at Government
6 Exhibit 121, please. Do you recognize that photo?

7 A Yes, that is the room at the second house.

8 MS. BRITSCH: Your Honor, I would move to admit
9 Government Exhibit 121, please.

10 (EXHIBIT 121 OFFERED.)

11 MR. WEINERMAN: No objection.

12 THE COURT: Received.

13 (EXHIBIT 121 RECEIVED.)

14 Q BY MS. BRITSCH: When you say the room, which room or
15 whose room is that?

16 A It's hard to tell, because it is not a full picture.

17 Q Do you recognize which house this photo was taken at?

18 A That is the second house.

19 Q And do you recognize the boys in this photo?

20 A LS X and BT XX.

21 Q I am going to ask you to take a look at Government
22 Exhibit 120, again, please. Sorry. Do you recognize any of
23 the people in this photo?

24 A SO XXX, LT XXXXXXXX, ES XXX, LS X, and me.

25 Q Can you put a mark where you are? If you touch the

1 screen it will make a mark.

2 A (Complies.)

3 Q And can you put a mark where LT XXXXXXXX is, please?

4 A (Complies.)

5 Q And what about SO XXX?

6 A (Complies.)

7 Q And what about LS X?

8 A (Complies.)

9 Q And ES XXX?

10 A (Complies.)

11 Q And who is the other person in this photo?

12 A Daniel.

13 Q Is that Daniel Johnson?

14 A Yes.

15 Q Thank you. And Government Exhibit 122, please. Do you
16 recognize this photo?

17 A Yes.

18 Q What does it show?

19 A It shows the gifts from the sponsors.

20 Q And which house was this photo taken at?

21 A Second home.

22 MS. BRITSCH: Your Honor, I move to admit Government
23 Exhibit 122, please.

24 (EXHIBIT 122 OFFERED.)

25 MR. WEINERMAN: No objection.

1 THE COURT: It will be received.

2 (EXHIBIT 122 RECEIVED.)

3 Q BY MS. BRITSCH: So you said these are gifts from
4 sponsors?

5 A Yes.

6 Q And do you remember when you were receiving these gifts?

7 A It was like in 2011 or 2012.

8 Q Do you know which room at Hope Transition Center this
9 is?

10 A D's room, Daniel's room.

11 Q And can you identify the boys in this photo, please?

12 A SO XXX, LS X, LT XXXXXXXX, ES XXX, myself, and D or
13 Daniel.

14 Q Thank you, Tola. So you said you lived at the third
15 house of Hope Transition Center for about a year; is that
16 correct?

17 A Yes.

18 Q Were you there when Daniel was arrested?

19 A No, I was not.

20 Q And where were you?

21 A I was in Kampot.

22 Q And what were you doing in Kampot?

23 A I took my guest for a mission over there.

24 Q Was Pastor Sopheak with you?

25 A Yes.

1 Q Did you, at some point while you were in Kampot, learn
2 that Daniel Johnson had been arrested?

3 A Yes.

4 Q And who told you about that?

5 A Sopheak -- Pastor Sopheak did.

6 Q And Tola, did Daniel Johnson ever sexually abuse you?

7 A No.

8 Q After Daniel Johnson was arrested, did you ever see him
9 again?

10 A I did.

11 Q And where was that?

12 A In jail.

13 Q Was that in jail in Cambodia?

14 A Yes.

15 Q And about how many times did you visit him in jail?

16 A Four or five times.

17 Q And did you bring any of the other boys with you to
18 visit him?

19 A I took CC X, SO XXX, PE XX, and occasionally, I went
20 with Pastor Sopheak.

21 Q And at that time, had you told anyone what LS X had said
22 about Daniel touching him?

23 A No.

24 Q Why didn't you tell anyone at that time?

25 A Because I just walk there, and I heard it so I was

1 not -- I wasn't sure.

2 Q Are you sure now of what you heard?

3 A Yes.

4 Q Tola, did you also communicate on Facebook with Daniel
5 Johnson?

6 A Yes.

7 Q And was that while Daniel Johnson was in jail?

8 A Yes.

9 Q If it's okay, I am going to show you some of the
10 Facebook conversations between you and Mr. Daniel Johnson.
11 And they are going to pop up on the screen, and we will just
12 walk-through them.

13 A Yes.

14 MS. BRITSCH: And, Your Honor, these are going to be
15 Exhibits 294 through 298, and 302 and 303, which the Court
16 has already admitted.

17 THE COURT: Correct.

18 MS. BRITSCH: So I would ask that they be published
19 to the jury.

20 Q BY MS. BRITSCH: We're going to start with Exhibit 294.
21 Tola, do you recognize this as a message from Daniel Johnson
22 to you?

23 A Yes.

24 Q And do you see where the message says, My heart is
25 breaking that SO XXX is being encouraged to pull away from

1 me?

2 A Yes.

3 Q Please talk with him privately and tell him not to
4 abandon his dad. I love you Tola.

5 Is that a message from Daniel Johnson to you?

6 A Yes.

7 Q Government Exhibit 295, please. And Tola, this exhibit
8 is going to look a little different, as well as the rest.
9 The first page is going to be a summary of the messages, and
10 I should clarify, it's not a summary. It's the exact
11 message, just condensed in an easier to read format.

12 A Yes.

13 Q And then behind the next page of the exhibit, it
14 contains the original messages. If we can go back to the
15 first page of 295, please.

16 Do you recognize this as messages between you and
17 Daniel Johnson?

18 A Yes.

19 Q And in it you discuss money for a moto; is that correct?

20 A Yes.

21 Q And can you explain why you are discussing money for a
22 moto in this conversation?

23 A Because when I went on a mission, like ministries
24 mission, he said that he was going to buy a moto. Save the
25 money to buy a moto for me to go to school.

1 Q When you say he, you mean Daniel Johnson?

2 A Yes.

3 Q So here, are you discussing his promise to buy you a
4 moto?

5 A Yes.

6 Q And here, does Daniel Johnson say, I had \$600 I will get
7 to you after I know what is happening in Friday?

8 A Yeah.

9 Q And then does he go on to say, Now I have people wanting
10 to know what they can do to help. So I am suggesting people
11 they can help like LT XXXXXXX, SO XXX, ES XXX and others.

12 And Tola, are those some of the boys that you saw go
13 into Daniel Johnson's bedroom?

14 A Yes.

15 Q Please take a look at Government Exhibit 296. And Tola,
16 before I move on, can you explain what a moto is in the
17 context of your messages?

18 A Moto it's a moto to ride on.

19 Q So does it refer to, essentially, a motorcycle or moped?

20 A Yes, a motorcycle.

21 Q And is that how a lot of people get around Phnom Penh?

22 A Yes.

23 Q Thank you. So Government Exhibit 296, do you see where
24 Daniel Johnson says, Tola, many people are very confused
25 right now and trying to find answers. But when we try to

1 find answers we often make mistakes.

2 And then skipping a couple of lines, It's easy to
3 come up with the wrong answers. And then he says, Please
4 don't believe everything you are hearing. And then does he
5 go on to quote scripture?

6 A Yes.

7 Q Do you see at the bottom where he quotes Matthew,
8 Chapter 7, Verses 1 through 2?

9 A Yes.

10 Q And it starts, Do not judge or you, too, will be judged.
11 And then the second page of that exhibit, please. Do you see
12 where Daniel Johnson quotes John, Chapter 8, Verse 7?

13 When they kept on questioning him, he straightened
14 up and said to them, let any of one of you who is without sin
15 be the first to throw a stone.

16 A Yes.

17 Q And after the scripture quotes does he say, I love you
18 Tola. Keep your eyes on Jesus and remember to follow your
19 heart?

20 A Yes.

21 Q And at the end of that paragraph, Do not follow your
22 ears or your mind. Those often lead to flesh decisions.

23 And if we can take a look at Government Exhibit 297,
24 please, and here, again, are you and Daniel Johnson
25 discussing money for your moto?

1 A Yes.

2 Q Does he also ask you to bring LT XXXXXXXX and RT XX to
3 visit?

4 A Yes.

5 Q And are LT XXXXXXXX and RT XX brothers?

6 A Yes.

7 Q And do they live at Hope Transition Center with you?

8 A Yes.

9 Q Government Exhibit 298, please. Do you see here where
10 Daniel asked you to try to bring CC X to visit him?

11 A Yes.

12 Q And then does Daniel say, Don't tell anyone, but ask him
13 if he would like to go see me?

14 A Yes.

15 Q Tell him I miss him so much, and I am praying he will
16 come to visit me.

17 A Yes.

18 Q And Government Exhibit 302, please. And this message,
19 does Daniel say, Tola, maybe don't need to change Facebook.
20 If you post something, it will let people know your heart.
21 You can post. I don't want anyone message me about anything
22 negative. God is in control of everything, but people try to
23 play like a god and it's not good. I want to close my
24 Facebook and make new, so people stop try to make bigger
25 problem.

1 Does Daniel then say, If you post something like
2 that it will be you holding up a sign to say, This Street Is
3 Closed. Go Another Way.

4 In that message, did you understand Daniel to be
5 asking you to post that on Facebook?

6 MR. WEINERMAN: Objection; calls for speculation.

7 THE COURT: He can testify as to what he understood.

8 THE WITNESS: I don't remember at that time.

9 Q BY MS. BRITSCH: And finally, Government Exhibit 303.
10 And about six lines down, does Daniel tell you that SO XXX
11 will be moving to Siem Reap in August?

12 A Yes.

13 Q And does Daniel say he got a sponsor for him already,
14 \$120 per month?

15 A Yes.

16 Q And then he says, Can get for you, too, but please don't
17 say to anyone. I don't want anyone thinking I am trying to
18 cause CUT. I am not. I just want to see everyone go in the
19 right direction. And I try to talk SO XXX, stay Phnom Penh
20 but he wants far away from everyone.

21 And on the next page of that exhibit, does Daniel
22 say, Soon we dance. Three to four more months I will be
23 back.

24 Do you recognize that last message, Tola?

25 A Yes.

1 MS. BRITSCH: I have nothing further at this time,
2 Your Honor.

3 THE COURT: Any cross?

4 MR. WEINERMAN: A couple.

5 CROSS EXAMINATION

6 BY MR. WEINERMAN:

7 Q Tola, did you ever move to Siem Reap?

8 A No, I don't think so.

9 Q You stayed in the city?

10 A Yes.

11 Q You were asked some questions about -- let's put on the
12 exhibit of the Pilot house. Do we have a number? We're
13 going to pull up a photograph in a minute.

14 MR. WEINERMAN: Can I inquire if the jury has it up?
15 We need to publish it to the jury, please.

16 THE COURT: It will. Is it up?

17 A JUROR: Yes.

18 Q BY MR. WEINERMAN: So Tola, is this the first house you
19 moved into with Daniel Johnson?

20 A Yes.

21 Q And is that the house where Daniel Johnson put on the
22 Coffee Ministry?

23 A Yes.

24 Q And was -- at some point was there a man named Pilot and
25 his wife living at the Coffee House Ministry?

1 A Yes.

2 Q And they took care of the kids, they acted as parents
3 for the kids?

4 A Yes.

5 Q And before they moved in, there were just a few people
6 living at the Coffee House Ministry?

7 A Yes.

8 Q And after Pilot and his wife moved in, many more people
9 moved into this house; is that correct?

10 A Yes, there were more moving.

11 Q And did you remain at this house until Pilot and his
12 wife moved out, or did you leave before they moved?

13 A They left before I did.

14 Q And how much longer were you at this house after they
15 left?

16 A They lived there for about six months before they left.

17 Q You did? You did?

18 A No, Pilot.

19 Q And did things change after Pilot and his wife left?

20 A Yes, we went to the second home.

21 Q After they left, there were less adults to supervise the
22 kids who lived at Hope Transition Center?

23 A Yes.

24 Q And the adults remaining were pretty much Daniel and
25 Pastor Sopheak?

1 A Yes. And the cook.

2 Q The cook. What was the cook's name?

3 A Channy, Ravy's mom.

4 Q Did Channy cook -- did Channy supervise kids or was she
5 pretty much just the cook?

6 A She was a cook, but she was also helping, you know,
7 oversee the kids, little ones.

8 Q And you talked about Hope Transition Center being a
9 better place to live than the first orphanage that you lived
10 in, right?

11 A Yes.

12 Q So Daniel Johnson was not at the first center or
13 orphanage you lived in, correct?

14 THE INTERPRETER: I am sorry. The interpreter
15 didn't hear.

16 Q BY MR. WEINERMAN: So Daniel Johnson was not at the
17 first orphanage you lived in, correct?

18 A Yes.

19 Q He was not?

20 A (Witness nods head.)

21 Q Let me ask it this way. You said you lived -- I believe
22 you said you lived at a center or orphanage that was run by
23 Filipinos?

24 A Yes, two years.

25 Q And Daniel Johnson was not at that place, correct?

1 A Correct, he was not.

2 Q And is it true that at this first place you lived at you
3 only were given food on Saturdays and Sundays?

4 A You mean at the previous place?

5 Q The previous place.

6 A Well, we had normal food, but we just did not have any
7 money.

8 Q How many days a week did they feed you at that first
9 house, before you moved into Hope Transition Center?

10 A It was three times a day, but it was just not a lot.

11 Q So the portions were smaller?

12 A Well, it was reasonable size, but we -- just not for you
13 to be so full.

14 Q So I want to ask you some questions about the sponsors
15 at Hope Transition Center. So you had a sponsor, correct?

16 A Yes.

17 Q More than one?

18 A Well, I had Mary Poole and her husband.

19 Q And other people who resided there had different
20 sponsors?

21 A Yes.

22 Q Not everyone had the same sponsor?

23 A Different sponsors.

24 Q So the gifts you received, let's say around
25 Christmastime, depended on the generosity of your sponsor?

1 A Yes.

2 Q Some sponsors were more generous than other sponsors?

3 A Yes.

4 Q And sponsors also provided money for weekly or monthly
5 allowance for the kids?

6 A That, I don't know, because he never told me.

7 Q So the money would be given to you by Daniel; is that
8 correct?

9 A Yes.

10 Q And you don't know where he got the money from?

11 A I knew, because of the sponsor told him to tell me.

12 Q So that would be Mary Poole?

13 A Yes.

14 Q So you testified that when Daniel Johnson was arrested,
15 you were taking guests to the mission in Kampot?

16 A Yes.

17 Q And these were foreigners who came to visit?

18 A Yes.

19 Q And Daniel Johnson asked you to take these people, these
20 guests to Kampot to see what was out there?

21 A Yes.

22 Q And to help the people out there?

23 A Yes.

24 Q Do you recall what sort of help you gave the people out
25 there?

1 THE INTERPRETER: I am sorry, Counsel.

2 Q BY MR. WEINERMAN: Do you recall what you did when you
3 were out there with the guests?

4 A I took the guest to visit different members or church
5 members.

6 Q By then the church in Kampot had been rebuilt; is that
7 correct?

8 A Yes.

9 Q And did the guests meet some of the people from Kampot?

10 A Yes.

11 Q People who attended the church there?

12 A Yes.

13 Q And do you remember who -- the name of the pastor who
14 was out there at Kampot?

15 A Just a second -- Pastor Sim, S-I-M.

16 Q Is it full name Om Sim, O-M, S-I-M?

17 A It's Om Sim, S-I-M.

18 MR. WEINERMAN: I have no further questions.

19 THE COURT: Any redirect?

20 MS. BRITSCH: Nothing further, Your Honor.

21 THE COURT: Thank you, Mr. Long. You can step down.

22 Let's take a short break. We will be back and
23 finish up some witnesses this afternoon.

24 (Brief recess taken from 2:22 p.m.

25 to 2:45 p.m.)

1 MR. SWEET: He's on topical numbing gel, which I
2 will confirm with him once I get him on the stand.

3 THE COURT: Don't give him any water. It might wash
4 it off.

5 MR. SWEET: And then I think we have gone over
6 exhibits. And then the way we set this up, Your Honor, is
7 the government would do direct of Mr. Sopheak, but as we
8 agreed with the defense yesterday, because of timing, they
9 would like to cross him tomorrow.

10 THE COURT: Is that the witness who is coming now?

11 MR. SWEET: So that would be our last witness.

12 So he's a 45-minute witness for the government. So
13 then that would be our last witness for the day.

14 THE COURT: Mr. Sopheak, the jury will come in and
15 we will stand up for them. But if you will remain standing,
16 I will have you sworn in.

17 (JURY IN.)

18 THE COURT: Please be seated, everyone.

19
20 SOPHEAK CHHOEURN,
21 produced as a witness, having been first duly sworn, was
22 examined and testified as follows:

23 (NOTE: Unless otherwise indicated, all answers
24 represented by "A" and "THE WITNESS" will be answers given by
25 the witness through the interpreter after translation.)

1 THE WITNESS: Yes.

2 THE COURT: Go ahead and have a seat, please, and if
3 you could state your first and last name, and spell both for
4 us, please.

5 THE WITNESS: One more time?

6 My name is Chhoeurn Sopheak, C-H-H-O-E-U-R-N,
7 S-O-P-H-E-A-K. That is my name.

8 DIRECT EXAMINATION

9 BY MR. SWEET:

10 Q Good afternoon.

11 A Hello.

12 Q May I ask you if most people call you Pastor Sopheak?

13 A Yes.

14 Q And is that because at Hope Transition Center there were
15 two individuals with the first name Sopheak?

16 A Yes.

17 Q And the other being SES XXXXXXXXXXXXX?

18 A Yes.

19 Q And so just because everyone else has referred to you as
20 Pastor Sopheak, may I call you Pastor Sopheak, as well?

21 A Yes, it's okay.

22 Q And from what we have talked about earlier, are you
23 essentially a missionary for an Evangelical church?

24 A Yes.

25 Q So speaking in the sense of the church, is your title

1 probably more correctly missionary than pastor, and pastor is
2 more of a nickname?

3 A Yes. I am Evangelist, slash, missionary, and I am the
4 one who goes by the gospel, the good news of God, and I also
5 teach it.

6 Q And I have to ask you, Pastor Sopheak, did you have an
7 unexpected visit to the dentist earlier today?

8 A Yes.

9 Q Do you have an abscessed tooth?

10 A It's okay now. It's just yesterday, yes, it was
11 swollen.

12 Q My understanding is that you didn't receive any medicine
13 that affects your thinking; is that correct?

14 A No, it's okay.

15 Q So just a topical numbing gel; is that right?

16 A Yes.

17 Q Okay. Thank you. So Pastor Sopheak, could you please
18 tell me, where were you born?

19 A Poum Dadao, Kom-Om-Peou-Preay, district of Srok Konda
20 Khad Kandal -- Province Kandal, which is middle province.

21 Q And is that in the Kingdom of Cambodia?

22 A Yes.

23 Q And could you tell us where do you live now in Cambodia?

24 A In Phnom Penh.

25 Q What do you do, please?

1 A I don't do anything much, but I have four to five -- no,
2 eight total younger siblings or younger fellows, missionary
3 Evangelists. My role is to spread the gospel. I am an
4 Evangelist, and I go to different provinces.

5 Q Do you have churches in Phnom Penh that you rotate
6 speaking at every week?

7 A No, not -- I don't have that. But at home we have Bible
8 study.

9 Q And do you speak at different locations, then?

10 A In the provinces.

11 Q Pastor Sopheak, you mentioned some younger men that live
12 with you. Could you tell us who lives with you, please?

13 A SO XXX, CC X, Rotan, Sambo, VS XXXXX, Wattana, LT XXX
14 XXXX, or LT X, in Cambodia. Hang on let me look at --

15 Q And if you get most of them, that's okay.

16 And Pastor Sopheak, did some of those boys start
17 living with you after Mr. Johnson was arrested in 2013?

18 A Some were already living with me, and some of them left,
19 went home already. And after they had gone home for a while,
20 they returned back to live with me.

21 Q So I would like to show you a few pictures to make sure
22 we're talking about the same people. Can we pull up
23 Government Exhibit 80.

24 MR. SWEET: And this is one we have discussed with
25 the defense and there's no objection.

1 THE COURT: It will be published.

2 Q BY MR. SWEET: Pastor Sopheak, are you in that photo,
3 sir?

4 A Yes.

5 Q And what about S0 XXX? Do you see S0 XXX? If you could
6 put a circle around his face, please.

7 A (Complies.)

8 Q And is S0 XXX the same S0 XXX who is living with you
9 now?

10 A Yes.

11 Q And you also mentioned -- is there anyone else in that
12 picture who is living with you now?

13 A Living with me, now a day?

14 Q Yes.

15 A No, that's all.

16 Q And I believe we're going to talk about BT XXXXXXXX, so
17 do you see BT XXXXXXXX in that photo?

18 A Yes, I see.

19 Q And could you circle him, please?

20 A (Complies.)

21 Q Let's go to Government's Exhibit 129, please. Could you
22 identify what that is a photograph of, please?

23 A I know the pictures.

24 Q And is that from one of the locations that you lived at
25 with Mr. Johnson?

1 A Yes.

2 Q And is Mr. Johnson in that picture, as well, the far
3 left?

4 A Right there (indicating).

5 Q And Government's Exhibit 4, please. Do you know who
6 those boys are?

7 A Yes.

8 Q Who are they, please?

9 A LS X and ES XXX.

10 Q Is ES XXX on the left in the red sweater, sweatshirt?

11 A Yes, ES XXX is in the red shirt.

12 Q Now, Pastor Sopheak, do you know Daniel Johnson?

13 A Yes.

14 Q And how did you first meet him, please?

15 A I know him because he was -- I met him around the end of
16 2010, or beginning of 2011, and I met him through my pastor,
17 Pilot.

18 Q And did you come to become friends with Mr. Johnson?

19 A Yes. And then I live with him, I lived with, in his
20 center.

21 Q And so I would like to show you Exhibit 271, and ask you
22 if you recognize that, please. Is that the first center you
23 moved into?

24 A Correct, that's it.

25 Q What was your role, please, at that center?

1 A I was a Bible student when I first moved there.

2 Q Did you have any other responsibilities as you stayed
3 there?

4 A After awhile, you mean?

5 Q Yes.

6 A After awhile, my role was to help to teach the gospel or
7 the words of God, from like a preacher.

8 Q And did you come to know BT XXXXXXX at that location, as
9 well?

10 A Yeah, we met over there.

11 Q And did you come to know the other boys that lived there
12 at the orphanage, as well?

13 A Yes.

14 Q And Pastor Sopheak, where did you sleep in that house?

15 A I sleep in the second level.

16 Q And where did Daniel Johnson sleep?

17 A At the lower level.

18 Q And would you see other boys in Mr. Johnson's room?

19 A Yes.

20 Q And who are some of the boys you would see go into his
21 room?

22 A ES XXX, LS X, CC X and SO XXX.

23 Q And did you see some of the boys in Mr. Johnson's room
24 at night?

25 A Yes. Correct.

1 Q And would you sometimes see the same boy in
2 Mr. Johnson's room the next morning?

3 A Some mornings I saw that, and some mornings I did not.

4 Q And so based on your observations, Pastor Sopheak, did
5 you believe that some of the boys would spend the night in
6 Mr. Johnson's room?

7 A Yes, there was some boys.

8 Q And could you name some of the those boys that you
9 believe spent the night in Mr. Johnson's room?

10 A This is not every time, okay.

11 Q I understand.

12 A There was ES XXX, LS X, CC X or SO XXX. And other ones,
13 too, but I don't know and I don't remember.

14 Q And Pastor Sopheak, we're just asking you what you saw.
15 We're not saying it's every time, just what you saw to the
16 best as you remember.

17 A Yes.

18 Q And Pastor Sopheak -- excuse me, Pastor Sopheak, about
19 how long did you stay at that first house?

20 A That, I am not -- I don't remember clearly. Around
21 about five to six months, or a little bit more than that.

22 Q And let's take a look at Government's Exhibit 272. And
23 do you recognize that, please? Do you believe that's the
24 second location you lived at? And if you are not sure, it's
25 okay.

1 A Perhaps it is that. That is it.

2 Q And where did you stay in this second house, please?

3 A The highest, the top level, third level.

4 Q And where did Mr. Johnson stay?

5 A On the bottom. There's one -- on the first level but
6 there's like -- there's one room, and then a couple steps,
7 and there's another room. So the first level, but in the
8 room way in the back.

9 Q And Pastor Sopheak, did it appear that Mr. Johnson had
10 some boys that were his favorites?

11 A Yes, ES XXX, LT XXXXXXXX, LS X.

12 Q And what makes you say that those boys were his
13 favorites?

14 A Because I see they would always be present at his room.
15 They like to go into his room.

16 Q And did it appear that -- did Mr. Johnson encourage boys
17 to come to his room?

18 A That, I do not know.

19 Q Did boys who went to Mr. Johnson's room -- let me ask
20 you this. What did boys do in Mr. Johnson's room?

21 A Sometime they watch TV, and other times they give
22 massages and things like that.

23 Q Let's talk a little bit about massages. Did Mr. Johnson
24 get a lot of massages from boys?

25 A Yes.

1 Q And where would the boys give him massages, what room?

2 A In his room.

3 Q And did Mr. Johnson get massages from boys in the first
4 house, second house, and third house?

5 A With regard to the first house, I do not know. But the
6 second house and the third house, yes.

7 Q Then talking about the second and third houses, did you
8 see where in Mr. Johnson's room he received massages?

9 A Once again, please?

10 Q What part of Mr. Johnson's room did he get massages?
11 Was it at a chair, a desk? Do you know where he got
12 massages?

13 A On the mattress on the bed, sometime on the chair, like
14 this.

15 Q And what would Mr. Johnson wear when he was getting
16 massages?

17 A Sometime he would wear normal clothes, and other times
18 he would wear a towel.

19 Q And Pastor Sopheak, did Mr. Johnson give the boys
20 anything after he would receive a massage?

21 A Afterward, I would often see the kids would have a
22 little bit of money to buy things to eat.

23 Q After giving Mr. Johnson a massage?

24 A Yes.

25 Q And Pastor Sopheak, did you give Mr. Johnson a massage

1 on his bed in his bedroom?

2 A No, but I have done it in a joking manner.

3 Q Did you -- where did you massage Mr. Johnson in a joking
4 manner? Like what part of him?

5 A (Indicating) here, right here, right there.

6 Q Like a shoulder rub?

7 A Yes.

8 Q Did Mr. Johnson ever get in his bed in a towel, and you
9 sit next to him and give him a body massage, or a full back
10 massage?

11 A No, that's never. If there's kid, and kid in a joking
12 manner, in a teasing manner, joking manner.

13 Q Pastor Sopheak, would you get in your bed with a towel
14 and have boys come into your room and give you massages on
15 your back?

16 A No.

17 Q Did you give boys money or gifts for giving you
18 massages?

19 A I have, but not like that. They are already big, they
20 are big kids.

21 Q Give me an example, please.

22 A So like Tola, an example, when he sees me, like I am
23 tired and exhausted, Sopheak, You look tired. Can I give you
24 a massage?

25 Q But was that in your bed?

1 A No, no. It's never on my bed. The area where there's a
2 bunch of kids, and sometimes it's on his bed.

3 Q Let me just ask you this. Were the massages or shoulder
4 rubs you got different from what Mr. Johnson got from boys in
5 his room?

6 A One more time, please?

7 Q Were the massages that you received, the shoulder rubs
8 from someone like Tola, were those different from what you
9 saw Mr. Johnson receiving from boys in his bedroom?

10 A Yes. Yes.

11 Q Pastor Sopheak, did you sleep naked in bed with the
12 boys?

13 A No.

14 Q Pastor Sopheak, I would like to go back in time a ways.
15 Was there a time when Mr. Johnson was in the United States
16 and you gave a sermon about sin?

17 A Yes.

18 Q Could you briefly explain what your sermon was talking
19 about?

20 A At that time I was explaining about sins and how sins
21 come about, and all the sins in the world are because of the
22 sins. That's why we have the current situations, life
23 circumstances that we have. So I would explain about that.
24 You have to admit and accept, so if you admit and accept your
25 own sin, and then you can ask for forgiveness and God will

1 forgive you for your sin. But you have to admit and ask and
2 accept your sin, and ask for forgiveness.

3 Q And after that sermon, were boys coming to you
4 individually to talk about things?

5 A Yes. Yes.

6 Q Did S0 XXX come and talk to you?

7 A Yes.

8 Q What did he say to you?

9 A S0 XXX come to tell me about abuse, and I said what --
10 abuse or something he goes -- Daniel did something not good
11 to him.

12 Q And did you ask him what that was?

13 A He told me, he told me -- he told me right away, and he
14 said Daniel played with his penis. And he took his penis,
15 like have sexual activity, like, you know. And then it's
16 just for a little bit, because S0 XXX said, Oh, it hurts.
17 Then after that he pulled it out.

18 However, at that time I want to send a message to
19 ask Daniel, I want to ask him, however -- but S0 XXX said,
20 No, Pastor, please do not make any more out of this. He said
21 at that time because he's in the United States, and if you
22 talk about something like that, it's going to make him not
23 return to Cambodia. And if he does not come back to
24 Cambodia, there's not going to be any more orphanage, and the
25 kids will not have any place to live, nor will they have

1 continuing education.

2 Q And do you remember what house it was that S0 XXX said
3 that to you?

4 A The second house.

5 Q And is the third house, the house that Mr. Johnson was
6 arrested at?

7 A No, S0 XXX told me in the second house.

8 Q Do you remember what room it was that S0 XXX told you
9 this?

10 A In front of the room, like here is the -- and here is
11 room where S0 XXX and he lived. And there's another room,
12 they call the meeting room, and that's where all the kids
13 came and told me about their stuff.

14 Q So S0 XXX told you this in the meeting room at the
15 second house; is that right?

16 A Yes.

17 Q And so I am understanding, did S0 XXX say that Daniel
18 Johnson touched S0 XXX's penis?

19 INTERPRETER: One more time, counsel.

20 Q BY MR. SWEET: Did S0 XXX say that Daniel Johnson
21 touched S0 XXX's penis?

22 A Yes.

23 Q And did S0 XXX say that Daniel Johnson put his penis
24 part way in S0 XXX's bottom or anus?

25 A Yes, just a little bit. Yes.

1 Q And he had to stop why?

2 A Because S0 XXX said he was in pain.

3 Q And S0 XXX asked you not to talk to Daniel Johnson; is
4 that correct?

5 A Yes. Yes.

6 Q And did you talk to Mr. Johnson about that?

7 A No.

8 THE COURT: Mr. Sweet, I wonder if I can touch base
9 with the attorneys real quick on time.

10 MR. SWEET: Yes.

11 (Bench Discussion.)

12 THE COURT: Folks, we're going to take a quick break
13 so I can accommodate another scheduling matter. 15,
14 20 minutes, and then we have about 15 or 20 minutes of
15 testimony remaining with Pastor Sopheak. The
16 cross-examination of Pastor Sopheak will not happen until
17 tomorrow morning. So we will get you out of here well before
18 5:00, and we're moving along on schedule. Thanks very much.

19 (JURY OUT.)

20 (Brief recess taken from 3:30 p.m.

21 to 3:59 p.m.)

22 THE COURT: Please be seated. Thanks for your
23 patience with me. That was on me. I had a meeting that I
24 committed to a long time ago. So thank you. We will return
25 to direct examination.

1 MR. SWEET: Thank you, Your Honor.

2 Q BY MR. SWEET: Pastor Sopheak, when we took a break, I
3 want to summarize where we were. You reported that at the
4 second location S0 XXX came to you and said that Daniel
5 Johnson had touched S0 XXX's penis; is that correct?

6 A Yes.

7 Q And that Mr. Johnson had put his penis into S0 XXX's
8 anus, but only part way because it was too painful for
9 S0 XXX?

10 A Yes.

11 Q And S0 XXX had asked you not to tell Mr. Johnson and you
12 didn't do so; is that correct?

13 A Yes.

14 Q So Pastor Sopheak, did you consider calling the police
15 yourself?

16 A At that time, I don't know what to think.

17 Q Well, so but you have a child who is saying that
18 Mr. Johnson had sexually abused him, why wouldn't you go to
19 the police? Were you afraid of something?

20 A Yes. So it is because S0 XXX had asked me not to say
21 anything about it, what Daniel did. And it's a promise.
22 It's a word I have to keep. And also, it's shared in
23 confidence and he really loves Daniel. And all the time he
24 would beg me not to say anything.

25 Q So S0 XXX, just to confirm, was -- excuse me, Pastor

1 Sopheak, was S0 XXX a boy at that time?

2 A Yeah. He was young.

3 Q Pastor Sopheak, was there another time that a boy came
4 to you to talk about Mr. Johnson touching him sexually?

5 A Yes, there was.

6 Q And who was that, please?

7 A ES XXX told me.

8 Q And what house was it that he told you this?

9 A He told me that Daniel play with his penis and stuff
10 like that, and it's not good. Oh, and his younger brother
11 named LS X.

12 Q And did this -- did ES XXX tell you this at the first,
13 second or third house?

14 A The third house.

15 Q Is that the house where Mr. Johnson was arrested at?

16 A Yes. Yes.

17 Q And did he -- did ES XXX tell you this within a few
18 weeks before Mr. Johnson was arrested?

19 A Yes, two or three weeks prior.

20 Q So how is it that this came about? Where were you when
21 ES XXX came to talk to you?

22 A It is because in the center in other home, our house,
23 there is a rule that said that you cannot play with touching
24 each other's penis, and things like that. And I don't know
25 about all the other rules that are there. I just, you know,

1 perhaps -- so because that kid told me about that, and I am
2 their teacher, I had go and ask and find out what happened.

3 Q So let's back up just a little bit, Pastor Sopheak. Did
4 ES XXX come to you in the day or at night? Do you remember?

5 A It's like in the morning time, but it's not at night,
6 definitely.

7 Q Did he come to your room, or did you talk somewhere
8 else?

9 A At that time when he came to tell me about it, it was at
10 the level -- it's at the top level.

11 Q How did -- how was ES XXX acting when he talked to you?
12 Was he upset? Was he angry? What was his mood or demeanor?

13 A He was feeling unhappy, not so happy.

14 Q And as best you can recall, what did ES XXX say to you?

15 A He told me that Daniel played with the penis, and
16 masturbated with LS X's.

17 Q So you said ES XXX told you that Daniel played with the
18 penis. Are you talking about ES XXX's penis?

19 A LS X's.

20 Q So ES XXX told you that Mr. Johnson was playing with
21 LS X's penis and masturbating LS X?

22 A Yes.

23 Q And was ES XXX also telling you that Mr. Johnson was
24 touching ES XXX sexually?

25 A That part, I don't remember.

1 Q And so after that, what did you do? What did you do
2 after ES XXX told you that?

3 A So afterward, I went to ask him what did he do anything
4 to the kids or not. I asked him in an investigating manner.

5 Q And so let me back you up one more second. So you just
6 said "him." Did "him" mean Daniel Johnson?

7 A Yes.

8 Q Before you talked to Daniel Johnson, did you also talk
9 with both ES XXX and LS X at the same time?

10 A Yes, I asked -- I talked to them and I asked them
11 different questions to both of them. However, LS X was
12 always crying.

13 Q So while you are talking to them and asking questions,
14 are those questions about Mr. Johnson touching them sexually?

15 A Yes. Yes.

16 Q While you are asking him those questions, LS X was just
17 crying; is that correct?

18 A Yes.

19 Q And after you spoke with ES XXX and LS X, did you go
20 talk with Mr. Johnson?

21 A Yes.

22 Q Where did you go talk to him?

23 A In his room.

24 Q Were you nervous?

25 A Some some.

1 Q Was this a hard thing to do?

2 A Yes.

3 Q So you are in Mr. Johnson's room. What do you say to
4 Mr. Johnson?

5 A I asked him, did you do things that are not good to LS X
6 or not.

7 Q And were you specific about doing sexual things to LS X?

8 A It was -- at that time I am not certain, not so clear.
9 I think I remember asking, did you play with his penis.

10 Q And were you upset as you were talking to Mr. Johnson?

11 A Who, me?

12 Q Yes, were you angry at Mr. Johnson?

13 A Just a little bit. My feeling, but I was more concerned
14 about is this the truth, did this happen, true or not.

15 Q So LS X's crying, you go into Mr. Johnson's room and you
16 ask him, did you play with LS X's penis; is that correct?

17 MR. WEINERMAN: Objection; he's leading the witness.

18 THE COURT: I think he's just summarizing what was
19 stated. Overruled.

20 THE WITNESS: I asked a lot of other questions, but
21 at the end was, did you play with his penis? And did you do
22 something that is not good to LS X, "yes" or "no."

23 Q BY MR. SWEET: What did Mr. Johnson say?

24 A He said no.

25 Q Did he make any motion or any movement?

1 A Some, too.

2 Q What was his motion or movement?

3 A I don't remember.

4 Q Pastor Sopheak, when we talked the other day, did you
5 describe Mr. Johnson as shrugging when you asked him this?

6 A Like that (indicating).

7 Q So you just kind of threw your hands up in the air?

8 A So he just did like this, and then he said, Well, those
9 kids, you know, they were upset because they were asking me
10 for something, and I didn't want to give them it. And they
11 wanted to tell you so this way you can come and argue on
12 their behalf.

13 Q After you talked to Mr. Johnson about sexually abusing
14 LS X, did Mr. Johnson start to say things to you in the
15 morning?

16 A After that, he often come and say, I apologize. I am
17 sorry. And he also said that, You are a good person. You
18 are good servant of God. You are a good leader.

19 Q And did this start a day or a few days after you
20 confronted Mr. Johnson?

21 A Yes. He would always say it all the time, but I don't
22 know what the word "sorry" is meant -- for what it's meant.

23 Q So after you confronted him and -- so starting after you
24 confronted him, he began saying, I am sorry to you; is that
25 correct?

1 A Yes.

2 Q Did Mr. Johnson meet with ES XXX after you confronted
3 him?

4 A At that time, I didn't pay attention. I do not know.
5 Because after that, I left his room and I went upstairs, so I
6 don't know.

7 Q Pastor Sopheak, after ES XXX and LS X came and talked
8 with you, or LS X just cried, did you discuss this, the
9 disclosure to you with anyone? Did you chat with anyone?

10 A I spoke with BT XX.

11 Q And was that on a Facebook message?

12 A Yes, messenger.

13 MR. SWEET: I would ask that Government's
14 Exhibit 194 be pulled up, but not published, just for the
15 witness and counsel, please.

16 THE COURT: Okay.

17 Q BY MR. SWEET: Pastor Sopheak, could you take a minute
18 and read that to yourself, please?

19 A (Complies.)

20 Q Have you read that?

21 A I don't understand. It's okay. The bottom part I don't
22 understand.

23 Q It cuts off. Pastor Sopheak, could you read just the
24 date at the top, please, or let me read it and can you
25 confirm. The first message, is it dated November 24th at

1 3:49 p.m.?

2 A Yes.

3 Q Was your message clear to BT XXXXXXXX that you were
4 concerned that Daniel was sexually abusing children?

5 A Yes, that is my worry and my concern.

6 Q And is the Daniel that you mention in your message, is
7 that Daniel Johnson?

8 A Yes.

9 Q And in your exchange of messages, are you specific in
10 talking about LS X and ES XXX?

11 A Yes.

12 Q And that your concern was regarding actually Daniel
13 having sex with kids?

14 MR. WEINERMAN: Objection; leading the witness.

15 THE COURT: Sustained.

16 Q BY MR. SWEET: Was or was not your question regarding
17 Mr. Johnson having sex with kids?

18 A One more time, please.

19 Q Did or did not your message discuss your concern was
20 that Daniel was having sex with kids?

21 A Yes, that's what I thought.

22 Q And then after you spoke with Mr. Johnson, did you then
23 send a message to BT XXXXXXXX again?

24 A I don't remember.

25 Q Can you take a look at the very last message, at the

1 very bottom, beginning, Hey bro. Do you see that, the last
2 part at the bottom. It says, I talked with him.

3 Was that last message, as far as you recall, after
4 you spoke with Mr. Johnson?

5 A That's right.

6 Q And is that last message stamped November 24th at
7 10:25 p.m?

8 A Yes, that's what it says in the Facebook. I didn't
9 remember that at the time.

10 Q You don't remember that right now, you are saying?

11 A It's there, the time.

12 Q And did you and BT XXXXXXXX message fairly regularly
13 about your concerns with Mr. Johnson, at least about this
14 incident?

15 A According to what I remember about the incident at that
16 time, we don't -- I don't know what to message him for,
17 generally.

18 Q About approximately two weeks after the boys spoke to
19 you, was Mr. Johnson arrested?

20 A Yes, around there, two to three weeks.

21 Q And after Mr. Johnson was arrested, did you go and see
22 him in jail?

23 A Yes.

24 Q And did Mr. Johnson -- what did he say to you
25 regarding -- did he say anything to you regarding abusing

1 boys?

2 A I don't remember.

3 Q Did he say to you that he was sorry?

4 A Yeah, the word sorry, he often say that a lot. But in
5 so many different things that we talk about, and the word
6 sorry is always there. So --

7 Q Did you see boys -- did boys that stayed with you or
8 that had lived in the orphanage, did they go see Mr. Johnson
9 in jail, regularly?

10 A I do not know if it's regularly on a daily basis, but
11 some of them went to see him.

12 Q Who do you recall going to see Mr. Johnson?

13 A There's kids, all of them. They wanted to go see him.

14 Q SO XXX?

15 A Yes. SO XXX.

16 Q ES XXX?

17 A I don't know about ES XXX. At that time he wasn't
18 living with me anymore. SO XXX, too, at that time he wasn't
19 living with me. But I just know that he went to see him
20 often.

21 Q Did you see the boys with money or phones or gifts after
22 they went to visit Mr. Johnson?

23 A That, I don't know. But I hear it, I hear the boys talk
24 about it pretty often when they go, and then they come back,
25 they would say they have a small budget, money.

1 THE COURT: I am sorry?

2 MS. MAXFIELD: Objection; hearsay.

3 THE COURT: I am sorry. I wasn't tracking.

4 MR. SWEET: The question, Your Honor, was did you
5 see the boys with money or gifts after visiting with
6 Mr. Johnson. He didn't see it, but he heard from the boys
7 that they got certain things from him.

8 THE COURT: Sustained. That would be hearsay, and I
9 ask that you strike that answer.

10 Q BY MR. SWEET: Pastor Sopheak, do you know Pastor Sinai?

11 A I know him, but not -- it was when -- what do you mean
12 by know him?

13 Q Do you know who he is?

14 A I just know he's a pastor, Pastor Sinai.

15 Q Do you know if Pastor Sinai is friends with Daniel
16 Johnson?

17 A Yes, that I know.

18 Q When you saw Daniel Johnson in jail, did Mr. Johnson
19 talk to you about getting a message to Pastor Sinai?

20 A Yes, I think there was.

21 Q And was that message about Pastor Sinai going and
22 talking to BT XX, BT XXXXXXXX?

23 MR. WEINERMAN: Objection; leading the witness.

24 THE COURT: Overruled. I will allow it.

25 THE WITNESS: What again?

1 Q BY MR. SWEET: Was the message from Mr. Johnson to you
2 to relay to Pastor Sinai, regarding Pastor Sinai talking to
3 BT XX's family?

4 A That, I don't recall. I don't remember.

5 Q Pastor Sopheak, did Mr. Johnson talk about knowing
6 powerful people?

7 A Yeah. He told -- he knows the authority, he knows the
8 rich --

9 Q And would he say --

10 A -- knows the officials, also.

11 Q I am sorry. I cut you off.

12 THE INTERPRETER: The rich, the authority and the
13 officials.

14 Q BY MR. SWEET: And is that something that Mr. Johnson
15 would talk about or boast about when he was at Hope
16 Transition Center?

17 A Yes.

18 Q And did you see Mr. Johnson with a lot of money? Does
19 he have a lot of money?

20 MR. WEINERMAN: Lack of foundation; objection.

21 THE COURT: We can follow up with some questions,
22 but let's see if he can answer the question first.

23 THE WITNESS: There are times -- there's times where
24 I have seen the money, and he told me that he had money. But
25 I don't know whose money it belongs to. I don't know how

1 much the money is, like the amount.

2 Q BY MR. SWEET: Did Mr. Johnson talk about calling the
3 police when he would get upset at people?

4 A Like I said, sometime when he just say as a warning to
5 the kids when they do something wrong, when they break the
6 rules in the house, like stealing things and taking stuff
7 from, you know, each other, the brothers and the siblings.
8 And that's it. It's just a warning.

9 Q Pastor Sopheak, are you afraid of Daniel Johnson? Are
10 you afraid of the connections that he claims?

11 MR. WEINERMAN: Objection; leading the witness.

12 THE COURT: Sustained.

13 Q BY MR. SWEET: Just the first question, then. Are you
14 afraid of Daniel Johnson?

15 A Sometimes I am afraid, other times I am not.

16 Q Almost done, Pastor Sopheak. Pastor Sopheak, when you
17 spoke with the FBI in Cambodia, you didn't bring up that
18 SO XXX had been penetrated by Mr. Johnson, correct?

19 A Yes.

20 Q And is that something that -- when was the first time
21 you told the FBI or the government about that?

22 A Here. It's couple days ago.

23 Q Pastor Sopheak, is what SO XXX told you a hard thing for
24 you to talk about?

25 A What do you mean? What do you mean by hard to continue

1 to tell others? Can you just summarize your meaning?

2 Q Do you regret not having told anyone about what SO XXX
3 told you at the second house?

4 A It's really hard for me to think about that, and to -- I
5 don't feel good inside. It's a burden that I carry and I
6 want to take a burden and release it. I feel like it's
7 something I have to carry with me all the time. And I want
8 to be free.

9 MR. SWEET: Thank you, Your Honor.

10 THE COURT: Folks, we're going to break. We will
11 take up cross-examination tomorrow morning, and we will see
12 everybody at 9:00 in the courtroom. Thank you very much.

13 (JURY OUT.)

14 THE COURT: We will be back on the record. The
15 witness may step down.

16 MR. SWEET: Interpreter, would you please advise him
17 he's still a witness and can't talk about the case with
18 anyone?

19 THE INTERPRETER: Yes, Counsel.

20 MR. SWEET: One thing that we had discussed was
21 because we have some pretrial -- not pretrial. Because we
22 have some matters to discuss with the Court tomorrow, we were
23 going to suggest that we might start with the jury at 9:30
24 because there's a motion which the government has filed to
25 admit co-conspirator statements that I think will take some

1 time to argue.

2 And there was a lawsuit filed by Mr. Johnson which
3 we need to address a few matters about, that will potentially
4 impact some testimony that the government will seek to admit.
5 So I can't imagine we would start before 9:30 or around
6 there.

7 THE COURT: All right. I will let Ms. Pew know and
8 let the jury know, and we will see everybody at 9:00 here.
9 Thank you.

10 (Proceedings concluded at 4:39 p.m.)
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1 STATE OF OREGON)
2) ss
3 COUNTY OF YAMHILL)
4

5 I, Deborah L. Cook, RPR, Certified Shorthand
6 Reporter in and for the State of Oregon, hereby certify that
7 at said time and place I reported in stenotype all testimony
8 adduced and other oral proceedings had in the foregoing
9 hearing; that thereafter my notes were transcribed by
10 computer-aided transcription by me personally; and that the
11 foregoing transcript contains a full, true and correct record
12 of such testimony adduced and other oral proceedings had, and
13 of the whole thereof.

14 Witness my hand and seal at Dundee, Oregon, this
15 8th day of May, 2018.

16
17 /s/ Deborah L. Cook, RPR, CSR

18 _____
19 DEBORAH L. COOK, RPR
20 Certified Shorthand Reporter
21 OREGON CSR #04-0389
22 CALIFORNIA CSR #12886
23 WASHINGTON CSR #2992
24
25